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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

In re J.H., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

J.H.,

Defendant and Appellant.

A133392

(Alameda County
Super. Ct. No. SJ06005798)

Minor J.H. has a history of delinquent behavior that began at age 12. At age 16, a juvenile wardship petition was reopened upon allegations that minor assaulted another young man and inflicted great bodily injury. (Pen. Code, §§ 245, subd. (a)(1), 12077.7, subd. (a); Wel. & Inst. Code, § 602, subd. (a).) Following a contested jurisdictional hearing, the juvenile court found the allegations to be true and placed minor in a group home. Minor appeals, contending that the evidence is insufficient to support the great bodily injury finding. We reject the contention and shall affirm the juvenile court's order.

FACTS AND COURT PROCEEDINGS

Minor had a long-standing feud with Jordan S., a fellow high school student. Jordan testified that minor instigated and perpetuated the feud with name-calling, physical attacks and general "bullying." The confrontation at issue here occurred on January 11, 2010. On that day, Jordan was playing soccer in a physical education class

when minor, who was not enrolled in the class, joined the game and then tackled Jordan. Tackling is outside the rules of soccer and Jordan asked minor “why did he do that.” Minor said, “Because I can, because I felt like it.” In retaliation, Jordan pushed minor and the two boys pushed each other back and forth as several of minor’s friends “egg[ed]” them on. Jordan broke off the confrontation and walked away, as minor called him “retarded” and other “harsh names.”

During the following lunch period, Jordan walked to a nearby store to buy potato chips. Minor and his friends followed Jordan. The group of boys surrounded Jordan, taunted him and said minor wanted to fight. Minor then squared off directly in front of Jordan and asked, “Do you want to fight me?” Before Jordan could respond, minor punched Jordan in the face. The punch struck Jordan in the left eye, rendering him unable to see well enough to defend himself. Minor repeatedly punched Jordan in the face with both fists and knocked Jordan to the ground. The back of Jordan’s head struck a tree and Jordan lost consciousness.

Jordan remained unconscious for approximately 20 minutes. The lunch period and Jordan’s one-block walk to the store began at 12:04 p.m. The punching occurred outside the store and lasted only about a minute before Jordan fell to the ground. At 12:35 p.m., someone called the police to report a person lying in the bushes. A police officer arrived on the scene within a minute or two and found Jordan lying on the ground. The officer testified that he called for an ambulance because Jordan “wasn’t responding to my questions or anything.” The officer said Jordan “wasn’t speaking at all.” Jordan looked “dazed and confused” and had “a blank stare on his face.” This condition lasted about five minutes, until the ambulance arrived and medical personnel were able to induce a response from Jordan. Jordan testified that he did not regain consciousness until he was in the ambulance.

Jordan was taken to the hospital where he told a nurse that he had a headache and was nauseated. Jordan complained of “moderate pain” and appeared to be in “moderate distress” according to medical records. The hospital staff reported that Jordan had abrasions on his face and head, and facial swelling and tenderness. The hospital

performed a CT scan, which found no brain hemorrhage and no “midline shift or mass effect.” A physician’s clinical impression was “minor closed head injury,” “concussion with loss of consciousness,” and “multiple contusions to the face.” Jordan was given pain medication and released after about three or four hours at the hospital.

The juvenile court found minor responsible for assault by means of force likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(1)) and also found that minor inflicted great bodily injury (Pen. Code, § 12022.7, subd. (a)). The court set minor’s maximum time of confinement at seven years and ordered him placed in a group home.

DISCUSSION

Minor’s sole contention on appeal is that there is insufficient evidence to support the juvenile court’s finding that he inflicted great bodily injury upon Jordan. (Pen. Code, § 12022.7, subd. (a)). “It is well settled that the determination of great bodily injury is essentially a question of fact, not of law” and will be affirmed on appeal if substantial evidence supports the trier of fact’s determination “ ‘ “even though the circumstances might reasonably be reconciled with a contrary finding.” ’ ” (*People v. Escobar* (1992) 3 Cal.4th 740, 750.) The evidence here fully supports the juvenile court’s finding.

Great bodily injury, within the meaning of the statute, “means a significant or substantial physical injury.” (Pen. Code, § 12022.7, subd. (f).) Jordan’s injuries meet this standard. He suffered facial contusions, a concussion and a loss of consciousness lasting about 20 minutes. While the exact period of unconsciousness is uncertain, the testimony establishes that Jordan lay unconscious long enough to become a concern to bystanders and that a police officer summoned to the scene found Jordan so dazed and confused that the young man could not respond to simple questions for at least five minutes after the officer arrived to assist him. Less severe injuries not impacting the brain, like bruises, abrasions and lacerations, have been held to constitute great bodily injury. (*People v. Escobar, supra*, at p. 752 [collecting cases].)

It is true, as minor notes, that Jordan did not experience any lasting brain injury or motor deficit but a finding of great bodily injury does not require proof that the victim

suffered permanent, prolonged or protracted disfigurement, impairment, or loss of bodily function. (*People v. Escobar, supra*, 3 Cal.4th at p. 750.) Nor is it dispositive that the medical records characterize Jordan’s pain as “moderate” and his head injury as “minor.” “[A] great bodily injury determination by the [trier of fact] rests on the facts as presented at trial in the context of the particular crime and the particular injuries suffered by the victim,” not on medical summations. (*People v. Cross* (2008) 45 Cal.4th 58, 65.) That an emergency room physician records a victim’s head injury as “minor” does not preclude a fact finder from determining, upon the evidence as a whole, that the victim suffered great bodily injury within the meaning of Penal Code section 12022.7, subdivision (a). The fact finder here had not only the medical records to consider but also witness testimony describing the victim’s loss of consciousness and incapacity. Viewed as a whole, the evidence supports the finding of great bodily injury.

DISPOSITION

The order is affirmed.

Pollak, J.

We concur:

McGuinness, P. J.

Jenkins, J.